



UNITED STATES SENATE
**REPUBLICAN
POLICY COMMITTEE**

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Taking the “Hate Crimes” Test

The Senate will soon turn to S. 625, a bill to make “hate crimes” a Federal offense. The bill was reported out of the Judiciary Committee in July of 2001, but the report was not ready until May of this year. The report devotes five pages to describing 17 “violent hate crimes” that are not now covered under Federal law; those crimes will be covered if S. 625 is enacted. One of the two crimes described on the back of this page was among the Committee’s 17. That crime is of deep concern to the bill’s proponents, and they want Federal law changed so that the F.B.I. and the U.S. Department of Justice can devote scarce resources to prosecuting it.

The other crime described on the back of this page was not mentioned in the report. It is a terrible crime, but it is not an official “hate crime” and so it gets no attention. This particular crime was brought to mind because on page 24 the report quoted an excerpt from the Supreme Court case in which the criminal who committed the crime was challenging his sentence (which was death – a penalty *not* permitted under S. 625). The Committee used the quotation to buttress its view that different crimes cause different harms, and that punishments ought to be proportional to crimes. We were not aware that anyone disagreed with that view.

The Committee quoted from the court’s opinion in *Payne v. Tennessee*, 501 U.S. 808, 819-20 (1991). Although the Committee ignored the underlying crime, we were delighted to see it quoting *Payne* – for it was in *Payne* that the Rehnquist Court allowed dead victims and their families *back* into the criminal justice system. *Payne* overturned two cases from the late 1980s which had held that the 8th Amendment *prohibited* the admission of victim-impact evidence during the penalty phase of a death-penalty trial. The Court said, and the Committee repeated:

“The assessment of harm caused by the defendant as a result of the crime charged has understandably been an important concern of the criminal law, both in determining the elements of the offense and in determining the appropriate punishment. * * * [I]n evaluating the gravity of the offense, it is appropriate to consider ‘the harm caused or threatened to the victim or society,’ based on such things as the degree of violence involved in the crime and ‘the absolute magnitude of the crime,’ and ‘the culpability of the offender,’ including the degree of requisite intent and the offender’s motive in committing the crime.”

On the back of this page are descriptions of the two crimes. Read those descriptions and then

judge the crimes by the standards quoted above. Which crime is more harmful, violent, frightening, destructive to society? Then, note which is the official "hate crime."

Which is the “Hate Crime”?

“Crime A”
Athens, Georgia
September 2, 2001

“Christopher Gregory, a 20-year-old gay man, was left with facial injuries after being attacked in an antigay incident outside a gay bar. Gregory was walking with friends when a group of approximately four men and three women began shouting antigay epithets at them, such as ‘faggot,’ ‘look at those faggots,’ and ‘[expletive]-packers.’ After he turned and said, ‘Leave us alone!’ one of the men allegedly punched him in the right eye, sending him to the concrete. He did not see the punch coming and landed on his face. As the alleged perpetrators walked away, one yelled, ‘stupid faggot.’ Gregory was treated at a local hospital and reported the incident to police. He said the police were ‘anything but sympathetic’ and were more concerned with his alcohol consumption than details about the bashing. The police filed the report as a hate crime that was alcohol related, have not interviewed witnesses and do not have any suspects, according to news reports. (Southern Voice, Sept. 13, 2001.)” [Source: Senate Judiciary Committee in S. Rpt. No. 107-147 at 29-30 (2002) (to accompany Senate Bill 625).]

“Crime B”
Millington, Tennessee
June 27, 1987

Charisse Christopher, a 28-year-old mother, and her two children were attacked in their own home by Pervis Tyrone Payne who wielded a butcher knife. Mrs. Christopher was killed, as was her 2-year-old daughter, Lacie; her 3-year-old son, Nicholas, miraculously survived. There was a sexual element to the crime. The victims and the murderer were of different races. There is no record of what the attacker *said* during his rampage because the adult woman who could have testified was slaughtered.

On the day of the murder, “Payne passed the morning and early afternoon injecting cocaine and drinking beer. Later, he drove around the town with a friend in the friend’s car, each of them taking turns reading a pornographic magazine. Sometime around 3 p.m., Payne returned to the apartment complex, entered the Christophers’ apartment, and began making sexual advances towards Charisse. Charisse resisted and Payne became violent. A neighbor who resided in the apartment directly beneath the Christophers heard Charisse screaming, ‘Get out, get out,’ as if she were telling the children to leave. The noise briefly subsided and then began, ‘horribly loud.’ The neighbor called the police after she heard a ‘blood curdling scream’ from the Christophers’ apartment. . . .

“Inside the apartment, the police encountered a horrifying scene. Blood covered the walls and floor throughout the unit. Charisse and her children were lying on the floor in the kitchen. Nicholas, despite several wounds inflicted by a butcher knife that completely penetrated through his body from front to back, was still breathing. Miraculously, he survived, but not until after undergoing seven hours of surgery and a transfusion of 1,700 cc’s of blood – 400 to 500 cc’s more than his estimated normal blood volume. Charisse and Lacie were dead. Charisse’s body was found on the kitchen floor on her back, her legs fully extended. She had sustained 42 direct knife wounds and 42 defensive wounds on her arms and hands. The wounds were caused by 41 separate thrusts of a butcher knife. None of the 84 wounds inflicted by Payne w[as] individually fatal; rather, the cause of death was most likely bleeding from all of the wounds. Lacie’s body was on the kitchen floor near her mother. She had suffered stab wounds to the chest, abdomen, back, and head. The murder weapon, a butcher knife, was found at her feet. . . .” [Sources: U.S. Supreme Court in *Payne v. Tennessee*, 501 U.S. 808, 811- 813 (1991) (opinion of the Court). *The Washington Post*, Feb. 16, 1991, p. A6.]